

**Board Report**

File #: 2016-0932, **File Type:** Contract**Agenda Number:** 26

**CONSTRUCTION COMMITTEE
JANUARY 19, 2017****SUBJECT: ALL TRANSIT CORRIDOR AND CAPITAL PROJECTS****ACTION: APPROVE CONTRACT MODIFICATION****RECOMMENDATION**

INCREASE the authorized funding for Contract No. EN077 with **Arcadis US, Inc. (AUS)**, to fund **additional Environmental Hazardous Materials and Construction Services Task Orders** in an amount not-to-exceed \$3,255,000 increasing the total Contract Value from \$38,000,000 to \$41,255,000.

RATIONALE

In September 2011, the Board authorized negotiation and award, and the Board funded the Contract in the initial amount of \$38,000,000, based upon a staff cost estimate of work necessary to support Metro's approved Capital Construction Program for FY12 through FY16. Outstanding Task Orders that were awarded in FY16 were carried over to FY17. These Task Orders are scheduled to terminate with the expiration of the EN077 Contract at the end of FY17. Any remaining Contract Value was projected to be sufficient to support existing environmental services efforts.

The emergence of changed conditions at major capital projects including Location 61S as well as multiple notices of violations resulting from additional regulatory compliance requirements related to State Water Resources Control Board and City and County of Los Angeles Fire Department underground storage tank requirements and SB 989 regulations required the additional use of AUS services beyond what staff has anticipated that can be handled within the current AUS Contract Value. Based upon forecasted work for the remainder of FY17 up to and until the expiration of this Contract at the end of the FY17, staff is requesting additional funding in the amount of 3,255,000 which would bring the total authorized value for this Contract to \$41,255,000.

Nearly every capital project, and many ongoing facilities maintenance or restoration activities undertaken by Metro require evaluation and, as necessary, removal or treatment of hazardous or contaminating substances. Metro must comply with all environmental laws to avoid fines, and civil or

criminal liability. To ensure such compliance, Metro has solicited and awarded contracts for environmental services. Under Contract No. EN077, AUS assists with the proper clean up, abating, managing, transporting, and disposing of contaminated or hazardous materials at various Metro operating facilities; and sampling and testing at various locations for contaminated and hazardous soils and water. AUS also performs, under this Contract, construction services that require environmental contractor specialization.

Specific projects identified to require environmental services, along with estimated costs of these services, is shown below. Attachment A includes a month to month cashflow projection on when these expenditures are going to be spent.

Underground Storage Tank Program	Est. Cost
Division 2 EG UST Removal & AST Install	\$350,000
Division 5 UST/AST Repairs and Upgrades	\$600,000
Division 9 UST Repairs and Upgrades	\$550,000
Division 10 UST System Repair	\$300,000
Emergency response failures UST/AST	\$135,260
Other Projects	
Soil & Water Transportation and Disposal	\$100,000
Purple Line Extension Waste Soil	\$ 40,000
Patsaouras Plaza Busway Management Environmental Support	\$217,000
Location 61 S / Soil Remediation	\$237,000
Regional Connector Waste Management On Call	\$ 15,000
PLE Lead and Asbestos Abatement Section 2	\$250,000
Crenshaw - LAX On-Call Incident Response Service	\$ 45,000
Location 61S Phase II Excavation	\$600,000
Bob Hope Airport Station	\$ 45,000
Geotechnical Waste Removal / LinkUSA Project Support	<u>\$ 70,000</u>
TOTAL	\$3,554,260

As of November 2016 (the time of report preparation), there is approximately \$1,900,000 remaining in the Contract Value for AUS. The requested increase in Contract Value will allow for the completion of the remaining work scheduled for FY17.

A replacement Environmental Services contract is currently under procurement and upon award at the end of FY17 will replace AUS to perform Environmental Services work.

IMPACTS TO OTHER CONTRACTS

Timely and thorough environmental services in connection with other construction contracts is essential to complete capital projects within schedule and budget. If the value of Contract No. EN077 is not increased, staff will not be able to respond to the outstanding and newly identified compliance requirements (including those that address the notices of violations); as well as respond to the major capital project changed conditions. Staff will also have to delay any remediation work that has a direct impact on the succeeding phases of projects. There is already a procurement for a replacement contract but the award will not be until the later part of this fiscal year. Any delay in provision of

environmental support will significantly increase Metro's liability for environmental regulatory compliance and contractor monetary claims of delay.

FINANCIAL IMPACT

EN077 is an Indefinite Delivery/Indefinite Quantity (IDIQ) contract. No Metro funds are obligated until a Contract Work Order (CWO) is issued by a Metro authorized Contracting Officer against a valid project budget. No expenditures are authorized until a Task Order is awarded by a Metro authorized Contracting Officer for a specific package of work within the CWO.

To date, Metro's financial and change control systems indicate that approximately \$36,000,000 out of the previously Board-approved \$38,000,000 has been obligated for completed and ongoing work. The remaining balance would not be sufficient to support contractor efforts to complete the required work for the rest of FY17.

The additional funding of \$3,255,000 is an increase in the amount which may be obligated and spent under the Contract. This increase in Contract Value is anticipated to be all spent by the end of FY17 and by the time the EN077 replacement contract is awarded.

Obligations and authorizations made within the total Contract Value will be against specific project or operations budgets which make up the Board-approved Metro budget for any particular fiscal year. The Chiefs of each of the business units overseeing these projects and the respective project managers are responsible for budgeting the costs.

Impact to Bus and Rail Operating and Capital Budget

The funding for this Contract Modification will come from various sources of projects and their corresponding funds (see Attachment A). These funds are eligible for bus and rail operating and capital expenditures.

ALTERNATIVES CONSIDERED

The Metro Board of Directors could decide not to increase the Contract Value for this Contract and thus staff has to solicit and award individual contracts for each environmental task to ensure the regulatory requirements and required mitigation work at project sites are addressed. Staff does not recommend this alternative owing most importantly to delays and correspondingly to high costs; as well as the administrative inefficiencies for managing multiple contracts.

As another alternative, Metro could perform all the environmental hazardous materials and construction services in-house. However to do so, Metro would need to hire additional staff with expertise in many different subjects, such as drilling, laboratory science, and operating heavy earth-moving and material handling equipment, as well as purchase earthmoving and material handling equipment, and laboratory equipment. Staff does not recommend this alternative owing to high capital costs to procure personnel and equipment as well as potential for implementation and training delays.

NEXT STEPS

After the recommended Board Action is approved, staff will complete the process to award task orders to address newly identified and required regulatory actions and mitigation/remediation measures.

ATTACHMENTS

Attachment A - Procurement Summary

Attachment B - Contract Modification/Change Order Log

Attachment C - DEOD Summary

Attachment D - Summary of Current and Proposed Work Requiring AUS Services

Prepared by:

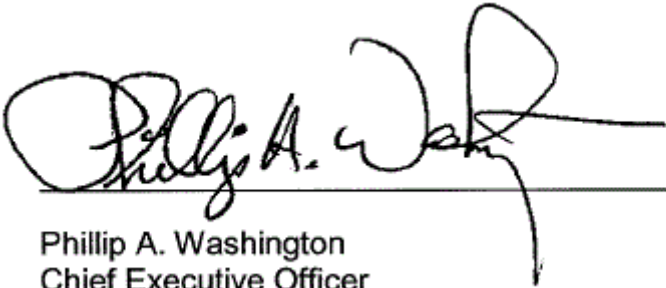
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Phillip A. Washington
Chief Executive Officer

**PROCUREMENT SUMMARY
ENVIRONMENTAL WASTE HANDLING AND ENVIRONMENTALLY RELATED
CONSTRUCTION SERVICES/EN077**

1.	Contract Number: EN077		
2.	Contractor: Arcadis -US, Inc.		
3.	Work Description: Sampling and testing at various Metro locations for contaminated soils and water. Clean-up, abatement, management, transporting and disposing of contaminated or hazardous materials at various Metro operating facilities. Construction services that require environmental contractor specialization		
4.	The following data is current as of: Dec 12, 2016		
5.	Contract Status:		
	Proposals Recieved:	March 29, 2011	Contract Award Amount: \$38,000,000.
	Contract Awarded:	August 15, 2011	Total of Modifications Approved: 10
	NTP:	September 26, 2011	Current Contract Value: \$41,255,000.
	Original Complete Date:	August 14, 2014	Current Est. Complete Date: June 30, 2017
6.	Contract Administrator: Daniel A. Robb		Telephone Number: (213) 922-7074
7.	Project Manager: Cris Liban		Telephone Number: (213) 922-2471

A. Procurement Background

This Board Action is to approve an increase in Contract Modification Authority (CMA) in support of Contract EN077 to provide continuing and additional Environmental Waste Handling and Environmentally-Related Construction Services as set forth in Contract EN077 currently in effect between Metro and Arcadis-US, Inc.

This Contract Modification Authority will be processed in accordance with Metro's Acquisition Policy and the contract type is an Indefinite Delivery Indefinite Quantity Contract.

Contract EN077 with Arcadis US, Inc. is for a five (5) year term covering the period between August 15, 2011 through August 15, 2016, inclusive of two (2) one-year options. This Contract was approved by the Board of Directors on June 16, 2011 with approved expenditure of up to \$21.2 Million of the \$38 Million in total contract value for FY12 to FY14 inclusive of sales tax and two (2) one-year options. On July 17, 2014, the Board authorized the use of the remaining contract value (from \$21.2 Million to \$38 Million). Ten (10) contract modifications have been executed and approved by the Board over the life of the Contract.

- Modifications 1 through 3 were issued to update the Terms and Conditions of the Agreement to include the Memorandum of Costs.

- Modification 4 extended the Period of Performance from August 14, 2014 to September 30, 2014.
- Modification 5 extended the Period of Performance from September 30, 2014 to March 31, 2015.
- Modification 6 extended the Period of Performance from March 31, 2015 to June 30, 2015
- Modification 7 extended the Period of Performance from June 30, 2015 to December 31, 2015.
- Modification 8 extended the Period of Performance from January 1, 2016 to June 30, 2016.
- Modification 9 extended the Period of Performance from July 1, 2016 to December 31, 2016.
- Modification 10 extended the Period of Performance from January 1, 2016 to June 30, 2017.

This Board Action shall fund continuing and additional Environmental Hazardous Materials and Construction Services in an amount not to exceed \$3,255,000, increasing the total contract value from \$38,000,000 to \$41,255,000.

Anticipated projects for Arcadis EN077 include, but are not limited to:

Underground Storage Tank Program **Est. Cost**

Division 2 EG UST Removal & AST Install	\$350,000
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TOTAL	\$3,554,260

Additional information regarding the history of Modifications to EN077 can be found in Attachment B – Contract Modification/Change Log.

B. Cost/Price Analysis

The recommended price of any future changes will be determined to be fair and reasonable based upon MAS audit findings, an independent cost estimate, cost analysis, price analysis, technical evaluation, fact finding, and negotiations.

ATTACHMENT B

CONTRACT MODIFICATION/CHANGE ORDER LOG

**ENVIRONMENTAL WASTE HANDLING AND ENVIRONMENTALLY RELATED
CONSTRUCTION SERVICES/EN077**

Mod. no.	Description	Status (approved or pending)	Date	\$ Amount
1.	Administrative Terms and Conditions	Approved	11/16/14	\$0.00
2.	Retention Reduction Per Contract Code Section 7201	Approved	12/22/13	\$0.00
3.	Add Subcontractors Trip Span & BTI	Approved	11/21/13	\$0.00
4.	No Cost Period of Performance Extension 8/14/14 to 9/30/14	Approved	8/5/14	\$0.00
5.	No Cost Period of Performance Extension 10/01/14 to 3/31/15	Approved	9/26/14	\$0.00
6.	No Cost Period of Performance Extension 3/31/15 to 6/30/15	Approved	3/11/15	\$0.00
7.	No Cost Period of Performance Extension 6/30/15 to 12/31/15	Approved	5/15/15	\$0.00
8.	No Cost Period of Performance Extension 01/01/15 to 6/30/16	Approved	9/24/15	\$0.00
9.	No Cost Period of Performance Extension 7/01/16 to 12/31/16	Approved	3/14/16	\$0.00
10.	No Cost Period of Performance Extension 1/01/17 to 6/30/17	Approved	9/29/16	\$0.00
11	Add funds for continuing and additional Environmental Hazardous Materials and Construction Services	Pending		\$3,255,000
				(Total for this mod.)
	Modification Total:			\$3,255,000
	Original Contract:			\$38,000,000
	Total:			\$41,255,000

DEOD SUMMARY

ENVIRONMENTAL WASTE HANDLING AND ENVIRONMENTALLY RELATED CONSTRUCTION SERVICES/EN077

A. Small Business Participation

Arcadis-US, Inc. made a Disadvantaged Business Enterprise Anticipated Level of Participation (DALP) commitment of 40.00%. The project is 81% complete and the current DBE participation is 38.35%, a shortfall of 1.65%. According to Arcadis-US, Inc., they are currently spending over 40% on DBE subcontractors for various projects. Once they receive payment from Metro for large invoices for the Location 61S project and in turn pay their subcontractors, it will bring their participation above the 40% commitment.

Small Business Commitment	40.00% DALP	Small Business Participation	38.35%
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	DBE Subcontractors	Ethnicity	% Commitment	Current Participation¹
1.	J.C. Palomar Construction, Inc.	Hispanic American	CWO	14.83%
2.	Advanced Technology Laboratories	Hispanic American	CWO	0.79%
3.	Jet Drilling	Hispanic American	CWO	0.76%
4.	Alliance Environmental Group	Hispanic American	CWO	0.08%
5.	Tri Span	Hispanic American	CWO	12.27%
6.	Insight EEC	Subcontinent Asian American	CWO	3.27%
7.	Bradley Tank	Asian Pacific American	CWO	3.82%
8.	Cal Vada	Hispanic American	CWO	0.10%
9.	Performance Analytical Laboratories	Caucasian Female	CWO	0.37%
10.	Verduzco Electric	Hispanic American	CWO	2.06%
	Total		40.00%	38.35%

¹Current Participation = Total Actual amount Paid-to-Date to DBE firms ÷ Total Actual Amount Paid-to-date to Prime.

B. Living Wage and Service Contract Worker Retention Policy Applicability

The Living Wage and Service Contract Worker Retention Policy is not applicable to this modification.

C. Prevailing Wage Applicability

Prevailing wage is not applicable to this modification.

D. Project Labor Agreement/Construction Careers Policy

Project Labor Agreement/Construction Careers Policy is not applicable to this contract.

